



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1996

Mr. Ronald J. Neiman
Neiman & Barnes, L.L.P.
P.O. Box 777
Lewisville, Texas 75067

OR96-1498

Dear Mr. Neiman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31865.

The City of Lewisville (the "city") has received a request for copies of arrest report[s], offense incident report[s], citizen complaint report[s], and/or traffic citation report[s] pertaining to a specified individual. You have provided copies of the records at issue and claim that the documents are excepted from required disclosure under section 552.108 of the Government Code.¹

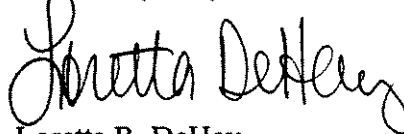
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes and information protected by the common-law and constitutional rights of privacy. Under common-law privacy, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 611 (1992) at 1.

¹You originally submitted copies of three reports involving the individual about whom records were sought. Subsequent to your original request for a decision, you reached an agreement with the requestor that she did not seek copies of the reports denoted as items 1 and 2. The requestor seeks only the report denoted as item 3. This ruling does not address whether items 1 and 2 may be withheld pursuant to exceptions to required public disclosure.

The request, basically, seeks the criminal history of the specified individual. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). We therefore conclude that the city must withhold from required public disclosure the criminal history information under section 552.101 of the Government Code. *See id.*; *see also* Gov't Code § 411.106(b).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 31865

Enclosures: Submitted documents

cc: Ms. Ramona N. Bailey
Personnel/Risk Officer
The City of Flower Mound
2121 Cross Timbers Road
Flower Mound, Texas 75028
(w/o enclosures)



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1996

Mr. Wiley W. Stem
Counsel for the City of Marlin
City of Marlin
P.O. Drawer 980
Marlin, Texas 76661

OR96-1500

Dear Mr. Stem:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 33212.

The City of Marlin (the "city") received two requests for records relating to a police investigation concerning two named individuals. You claim that the information is excepted from disclosure under section 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.¹ *Houston Chronicle*

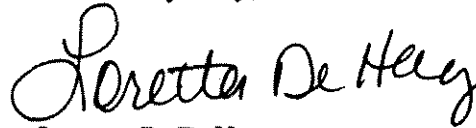
¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. In addition, the information generally found on the first-page of the offense report includes not only the information you have previously released to the media, but also the details of the arrest and a detailed description of the offense allegedly committed. *Houston Chronicle Publishing Co.*, 531 S.W.2d at 185, 187; Open Records Decision No. 127 (1976) at 3-4. The information you have released does not include these items. We have enclosed an excerpt from Open Records Decision No. 127 (1976), which lists the types of information that you must disclose.

Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We conclude that, except for front page offense report information, section 552.108 of the Government Code excepts most of the requested information from required public disclosure.

We note that within the documents submitted to this office for review are records filed with the court. Although it is unclear whether the city contends that these records are excepted from disclosure under section 552.108, we believe that the city has waived any section 552.108 protection for those documents that are part of the public court record.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref: ID# 35212

Enclosures: Summary of Open Records Decision No. 127 (1976)
Submitted documents

cc: Mr. Ron Butler
Attorney at Law
P.O. Box 20
Marlin, Texas
(w/o enclosures)

David & Trudy Porterfield
507 Capps
Marlin, Texas 76661
(w/o enclosures)